

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

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CRIMINAL NO: 09-391

v.

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SECTION: "K"

**ERNEST TROSCLAIR
a/k/a "Koo"**

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FACTUAL BASIS

If this case were to proceed to trial, the United States would prove the following facts beyond a reasonable doubt:

In the beginning of 2009, agents of the Drug Enforcement Administration (DEA) began an investigation into the drug trafficking activities of WILLIAM STEVENSON and others in the Eastern District of Louisiana and elsewhere. On July 28, 2009, United States District Judge Ivan L.R. Lemelle signed an order authorizing the interception of wire communications over cellular telephone number (504) 402-9853 utilized by WILLIAM STEVENSON (hereinafter referred to as STEVENSON). Interception of wire communications to-and-from this telephone continued until August 16, 2009. Agents were also granted a federal search warrant for text messages sent to and from telephone number (504) 402-9853. Following the termination of the wire interception on STEVENSON's telephone, agents were granted authorization by United States District Judge Ivan L.R. Lemelle to intercept communications over cellular telephones (504)896-

0210 utilized by MARK ROSS; (832) 724-9881 utilized by LANDRY GRANDISON; (281) 302-9107 utilized by CASSANDRA BATISTE and TROY POCHE; and (504) 281-7430 utilized by HOWARD LUMAR, JR. During the course of the investigation, agents learned that STEVENSON conspired with MARK ROSS, LANDRY GRANDISON, TROY POCHE, and CASSANDRA BATISTE to obtain wholesale supplies of heroin that he mixed with cutting agents and packaged for individual distribution. LUMAR was revealed to be an associate of ROSS, GRANDISON, DEWAYNE COOPER, and ROBERT JOHNSON. At trial, evidence and testimony would be presented to prove that LUMAR was part of the conspiracy to possess with intent to distribute cocaine hydrochloride and heroin in the City of New Orleans. Each week during 2009, LUMAR sold multiple ounce quantities of the heroin he purchased to **ERNEST TROSCLAIR** who in turn would “cut” the heroin to make more of it and distribute it to lower level retail dealers or addicts some of whom were from B.W. Cooper public housing project.

At trial, the wiretap of LUMAR’s telephone would be offered into evidence to show that from October 19, 2009 through December 1, 2009, **TROSCLAIR** and LUMAR were intercepted on the wiretap discussing the cost and amount of heroin available to them. For example, on October 19, 2009, LUMAR was intercepted talking to **TROSCLAIR** asking him if “them things they not f-cked up is they?” **TROSCLAIR** responded “no.” LUMAR said “I’m a come back and get the two I gave you and give them to my dude for what I give them to you for and that will pay our bill.” **TROSCLAIR** said, “I done that with them two though . . . I done that.” When LUMAR asked what he had done, **TROSCLAIR** replied that he “put the fifteen sand paper on both of them.” LUMAR asked “is they eatable?” **TROSCLAIR** replied, “yeah, like yours and your other; there ain’t nothing wrong.” LUMAR told him that he was going to

come and get them. At trial, testimony would be presented to prove that LUMAR was asking **TROSCLAIR** for two ounces of heroin he had previously provided **TROSCLAIR**. At trial, witnesses and agents would testify that when **TROSCLAIR** said he “put the fifteen sand paper on both of them” he meant that he had put cutting agent on the heroin to make the two ounces LUMAR gave him into four ounces or 112 grams. When LUMAR asked if “they eatable” he wanted to make sure that the heroin was still potent enough for resale to a dealer.

TROSCLAIR assured him that they were.

On October 27, 2009, LUMAR and **TROSCLAIR** were again intercepted, but on this occasion the topic was money. LUMAR asked **TROSCLAIR** “hey, just 17?” **TROSCLAIR** said, “you right. . . ‘cause I think she had taken 308, yes, she did, she did take 3. My bad. . . I’m glad you caught it.” At trial, witnesses would testify that LUMAR was inquiring whether **TROSCLAIR** intended to only give him \$1700 versus the \$2000 LUMAR was still owed for some heroin he sold to **TROSCLAIR**. Witnesses would testify that **TROSCLAIR** acknowledged that he was short \$300 when he said she took 3. At trial, witnesses and agents would testify and calls would be offered to show that LUMAR on occasion sold ounces of heroin for \$2000. Until LUMAR’s arrest in December 2009, LUMAR would give ounces of heroin to **TROSCLAIR** for re-distribution.

The government and the defendant **ERNEST TROSCLAIR** agree and stipulate that the amount of narcotics he was responsible for distributing and that was reasonably foreseeable to

him as being distributed by his co-conspirators in this case is at least 1 kilogram but not more than 3 kilograms of heroin. The government and the defendant **ERNEST TROSCLAIR** agree that he was not responsible for distributing cocaine hydrochloride.

Read and Approved:

ERNEST TROSCLAIR (Date)
Defendant

WARREN MONTGOMERY (Date)
Defense Counsel for Ernest Trosclair

EMILY K. GREENFIELD # 28587 (Date)
Assistant United States Attorney